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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,941	09/16/2003	Matthew J. Truman	8528-PA01	3858
27111	7590	04/05/2006	EXAMINER	
GORDON & REES LLP 101 WEST BROADWAY SUITE 1600 SAN DIEGO, CA 92101			PUROL, DAVID M	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/663,941	Applicant(s) TRUMAN, MATTHEW J.	
	Examiner David M. Purol	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 14-16 and 19-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 14-16, 19-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because the reference character "40" has been used in figure 3 and figure 2 to denote different elements.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3-5,7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Martinez et al. Martinez et al disclose a garage door comprising a plurality of hinged 21 sections 11 each having a panel 11c and a panel overlay 11a affixed thereto. The panel overlay 11a has a molded surface contour A,31,32.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,16,19,20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez et al in view of Jella '085. While Martinez et al do not disclose the upper and lower faces of the panel overlays as defining a sloped gap, Jella '085 discloses a garage door comprising panel overlays having a sloped gap 80,84 with no structure covering the outer surface in addition to aligned protrusions, wherein, to incorporate these teachings into the garage door of Martinez et al for the purpose of aesthetics would have been obvious to one of ordinary skill in the art.

4. Claims 6,8,14,15,22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez et al in view of Thorn. Regarding the type of material from which the panel overlay is made from, it is a well settled issue that the selection of a known material based upon its suitability for the intended use would have been obvious to one of ordinary skill in the art. Even so, however, Thorn discloses that it is well known to use a urethane material for door constructions, wherein, to incorporate this teaching into the garage door of Martinez et al would have been obvious to one of ordinary skill in the art. As to claim 8, the use of nails as a fastening medium is a well known construction technique and as such cannot be relied upon for patentability.

5. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez et al in view of Jella '457. While Martinez et al do not disclose the use of a filler material, Jella '457 discloses a door panel comprising a filler material 16, wherein, to incorporate this teaching into the door panel of Martinez et al for the purpose of

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increasing the insulation properties of the door panel would have been obvious to one of ordinary skill in the art.

6. The applicant argues that the element 11c of Martinez is not a panel but is simply a rear overlay sheet extending over the core 11a of the panel, a similar overlay sheet 11b is provided over the front surface of core 11a, however, these are completely integrated with the core 11a to form a composite unit, and thus neither sheet can be interpreted to be a separate panel to which a molded panel overlay is affixed. This is not convincing for the claims do not define any structure of the panel which would differentiate from the panel 11c as disclosed by Martinez et al. The applicant states that Martinez et al do not disclose the panel as comprising a rectangular box and a rectangular panel overlay adhered thereto. This is not convincing for the rails and stiles 16,17,19 of Martinez et al define a rectangular box and further Martinez et al disclose the use of adhesive for added strength (see column 3, lines 62-65).

The applicant argues that it would not be possible to modify Martinez to provide a sloped gap for there are metal end caps or rails 16,17 in the form of channels receiving the upper and lower end edges of the panels 11 securing them to the rear stiles 19. This is not convincing for there is nothing to indicate that such a sloped gap as disclosed by Jella '085 cannot be formed.

The applicant states that for a proposed combination of references to be obvious there must be some motivation suggested by the references or the prior art as a whole for making the combinations. It should be noted that each of the references to Martinez

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et al, Thorn, Jella '085 and '457 are from the applicant's field of endeavor, wherein, the applicant is presumed to have full knowledge of the prior art in their respective field of endeavor.

The applicant states that the references do not suggest adjacent panel overlays with projections on one panel overlay aligned with corresponding projections on an adjacent panel overlay when the door panels are in the deployed position so as to form a continuous contour flowing from one panel overlay to the next. This is not convincing for Jella '085 clearly discloses and illustrates overlays 30,32 which when the door panels are in the deployed position form a continuous contour flowing from one panel overlay to the next.

As to the applicant's argument that any modification of Martinez to eliminate rails 16,17 such that each overlay panel has an outer surface which is completely exposed from the upper to the lower edge is clearly not obvious from the references, however, to have eliminated the cap section 41,51 of Martinez et al together with their function would have been obvious to one of ordinary skill in the art.

Applicant's arguments have been fully considered but they are not persuasive.


7. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected with the art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the

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submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication should be directed to David M. Purol at telephone number (571) 272-6833.


David M. Purol
Primary Examiner
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